

STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Octavio Richmond,
Correctional Police Officer (S9988A),
Department of Corrections

List Removal Appeal

CSC Docket No. 2020-1120

ISSUED: APRIL 12, 2021 (EG)

Octavio Richmond appeals the removal of his name from the Correctional Police Officer (S9988A), Department of Corrections eligible list due to an unsatisfactory employment record and falsification of his pre-employment application.

The subject eligible list was promulgated on June 27, 2019 and expires on June 26, 2021. In disposing of the certification, the appointing authority requested that the appellant's name be removed from the subject eligible list due to an unsatisfactory employment record and falsification of his pre-employment application. Specifically, it asserted that the appellant was terminated from Walmart in 2018 for gross misconduct and was terminated from Ancora Psychiatric Hospital for failing to follow proper protocol. Further, it contends that the appellant failed to disclose a police contact in 2016.

On appeal, the appellant indicates that his termination from Walmart was as a result of him not reporting that his coworker on the overnight shift had left with a bag. The coworker had stolen something, and management assumed the appellant was a party to it. The appellant argues that he had no knowledge of what his coworker was doing. He indicates that he was terminated and ordered to pay \$100 in restitution. With regard to his removal from Ancora, the appellant states that he was working as a Temporary Employment Services (TES) housekeeper and a patient took a mop from his cart and hit another individual. The appellant claims that he was terminated because he only reported the incident to his supervisor, and not to the head supervisor as was required. He contends that he did not know that such incidents had to be reported to the head supervisor. Further, the appellant argues that with regard to the claim of falsification, he had no idea that he was listed as a suspect in a matter. He asserts that he never received any information or documentation about this incident at the time it occurred. The appellant states that

the incident involved his cousin who had words with another individual. In an attempt to de-escalate the situation, the appellant got his cousin into his car and drove away. He had no knowledge that the police had been called or that he was involved in any way.

In response, the appointing authority reiterates that the appellant's unsatisfactory employment history and the falsification of his preemployment application, and argues that he is not a suitable candidate for Correctional Police Officer. In support of its contentions the appointing authority submits a copy of the appellant's application and his criminal record. Moreover, the appointing authority states that it strives to select candidates who exhibit a good work ethic and respect for the law as this is imperative to effectively manage the day-to-day operations of a correctional system, and argues that the appellant is not a suitable candidate.

CONCLUSION

N.J.A.C. 4A:4-4.7(a)1, in conjunction with *N.J.A.C.* 4A:4-6.1(a)7, allows the removal of an individual from an eligible list who has a prior employment history which relates adversely to the position sought. Additionally, *N.J.A.C.* 4A:4-4.7(a)1, in conjunction with *N.J.A.C.* 4A:4-6.1(a)6, allows the Commission to remove an individual from an eligible list who has made a false statement of any material fact or attempted any deception or fraud in any part of the selection or appointment process. Further, *N.J.A.C.* 4A:4-6.3(b), in conjunction with *N.J.A.C.* 4A:4-4.7(d), provides that the appellant has the burden of proof to show by a preponderance of the evidence that an appointing authority's decision to remove his or her name from an eligible list was in error. Moreover, *N.J.A.C.* 4A:4-4.7(a)1, in conjunction with *N.J.A.C.* 4A:4-6.1(a)9, allows the Commission to remove an eligible's name from an eligible list for other sufficient reasons. Removal for other sufficient reasons includes, but is not limited to, a consideration that based on a candidate's background and recognizing the nature of the position at issue, a person should not be eligible for appointment.

In the instant matter, the appellant's name was removed from the eligible list for falsification and an unsatisfactory criminal record. The record indicates that the appellant failed to disclose a contact with the police in 2016. The appellant was required to provide a complete and accurate record of his background for review by the appointing authority as part of the pre-employment process. The record indicates that he failed to do so. On appeal, the appellant states that he did not purposely leave any information out of his application and he did not know that police had been involved in the incident. However, even assuming, *arguendo*, that the appellant merely forgot to include this information, an applicant must be held accountable for the accuracy of the information submitted on an application for employment and risks omitting or forgetting any information at his or her peril. *See In the Matter of Curtis D. Brown* (MSB, decided September 5, 1991) (A Fire Fighter applicant who alleged

he could not recall certain information omitted from an application should be removed from the list since an honest mistake is not an allowable excuse for omitting relevant information from an application). In this regard, encounters with law enforcement officials are considered material and should have been accurately indicated on his employment application. His failure to disclose this information is indicative of the appellant's lack of integrity and questionable judgment. Such qualities are unacceptable for an individual seeking a position as a Correctional Police Officer and the falsification of his pre-employment application presents a basis to remove the appellant's name from the subject eligible list.

Further, with regard to the appellant's employment history, while the appellant has provided explanations for being terminated two times, he has not provided any evidence in support of his contentions. Moreover, the incident at Walmart was a serious offense as it involved theft and the appellant was required to pay restitution. Additionally, the appellant's employment history clearly relates adversely to the title sought. In this regard, the Commission is mindful of the high standards that are placed upon law enforcement candidates and personnel. In this regard, it is recognized that a Correctional Police Officer is a law enforcement employee who holds a highly visible and sensitive position within the community and the standard for an applicant includes good character and an image of utmost confidence and trust. *See Moorestown v. Armstrong*, 89 N.J. Super. 560 (App. Div. 1965), *cert. denied*, 47 N.J. 80 (1966). *See also In re Phillips*, 117 N.J. 567 (1990). The appellant's employment background clearly indicates that he would not be suited for such a position.

Accordingly, based on the foregoing, there is ample support in the record to remove the appellant's name from the Correctional Police Officer (S9988A), Department of Corrections eligible list.

ORDER

Therefore, it is ordered that this appeal be denied.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 7TH DAY OF APRIL, 2021

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